

**Final Rule**  
LSA Document #16-1(F)

DIGEST

Adds [440 IAC 10-2-3](#) to set forth the manner in which the division will determine whether there is a need for a new opioid treatment program in a proposed program location's geographic area. Effective 30 days after filing with the Publisher.

**[440 IAC 10-2-3](#)**

SECTION 1. [440 IAC 10-2-3](#) IS ADDED TO READ AS FOLLOWS:

**[440 IAC 10-2-3](#) Determining need for a new opioid treatment program**

Authority: [IC 12-8-8.5-4](#); [IC 12-23-1-6](#); [IC 12-23-18-5.5](#)

Affected: [IC 12-23-18](#)

Sec. 3. (a) In determining whether there is a need for a new opioid treatment program in a proposed opioid treatment program's geographic location, the division shall consider the following factors as presented by a proposed opioid treatment program:

- (1) The proposed opioid treatment program is at least twenty (20) miles away from an existing opioid treatment program, except where there is significant need, based on criteria in subdivisions (2) through (7), to support a second opioid treatment program within the twenty (20) mile radius.
- (2) The proposed opioid treatment program demonstrates that the community in the proposed opioid treatment program's geographic location has a significant number of health-related indicators of opioid misuse as illustrated by:
  - (A) emergency room reports indicating opioid misuse;
  - (B) death reports indicating opioid misuse;
  - (C) reports of individuals infected with hepatitis C virus or human immunodeficiency virus (HIV); or
  - (D) the presence of pain clinics in the area, including closed pain clinics.
- (3) The proposed opioid treatment program demonstrates that the community in the proposed opioid treatment program's geographic location has a significant number of opioid-related criminal activities as illustrated by:
  - (A) criminal adjudications;
  - (B) arrests; or
  - (C) diversions.
- (4) The proposed opioid treatment program demonstrates that the community in the proposed opioid treatment program's geographic location has high rates of substance use disorders involving opioids.
- (5) The proposed opioid treatment program demonstrates there is strong community support for a new proposed opioid treatment program in the proposed opioid treatment program's geographic location through letters of support from interested community members.
- (6) The proposed opioid treatment program accepts health insurance, including health insurance provided by the state or federal government.
- (7) The proposed opioid treatment program anticipates serving a significant number of clients with income levels at or below one hundred thirty-eight percent (138%) of the federal poverty level.

(b) The division shall consider the information provided by the proposed opioid treatment program in subsection (a) in addition to information available to the division such as:

- (1) INSPECT rates of opioid prescriptions in the proposed opioid treatment program's geographic location; and
- (2) the number of opioid treatment patients enrolled in an opioid treatment program over twenty (20) miles away from the proposed opioid treatment program's geographic location.

(c) The proposed opioid treatment program may submit to the division the information required in subsection (a)(1) through (a)(7) for a decision from the division that there is a need for the proposed opioid treatment program prior to applying for certification of an opioid treatment facility and addiction treatment facility under [440 IAC 10-3](#) under subsection (d).

**(d) If the division determines there is a need for a new opioid treatment program in a proposed opioid treatment program's geographic location under subsections (a) and (b), the division shall permit a new opioid treatment program to apply to the division for certification of an opioid treatment facility and addiction treatment facility under [440 IAC 10-3](#).**

*(Division of Mental Health and Addiction; [440 IAC 10-2-3](#); filed Oct 12, 2016, 2:07 p.m.: [20161109-IR-440160001FRA](#))*

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